

286.9-100 Procedures to be followed by licensees.

- (1) Each licensee shall keep and use in its business any books, accounts, and records the office may require to carry into effect the provisions of KRS 286.9-010 to 286.9-120 and the administrative regulations issued under those sections. Every licensee shall preserve the books, accounts, and records for at least two (2) years.
- (2) Any fee charged by a licensee for cashing a check shall be disclosed in writing to the bearer of the check prior to cashing the check, and the fee shall be deemed a service fee and not interest. A licensee shall not charge a service fee in excess of fifteen dollars (\$15) per one hundred dollars (\$100) on the face amount of the deferred deposit check. A licensee shall prorate any fee, based upon the maximum fee of fifteen dollars (\$15). This service fee shall be for a period of fourteen (14) days.
- (3) Before a licensee shall deposit with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.
- (4) No licensee shall cash a check payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the board of directors or similar governing body of the payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.
- (5) No licensee shall indicate through advertising, signs, billhead, or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the office. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.
- (6) Within five (5) business days after being advised by the payor financial institution that a check, draft, or money order has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the office and the Commonwealth's attorney for the judicial circuit in which the check was received. If a check, draft, or money order is returned to the licensee by the payor financial institution for any of these reasons, the licensee shall not release the check, draft, or money order without the consent of the Commonwealth's attorney or other investigating law enforcement authority.
- (7) No licensee shall alter or delete the date on any check accepted by the licensee.
- (8) No licensee shall engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business.
- (9) No licensee shall require a customer to provide security for the transaction or require the customer to provide a guaranty from another person.

- (10) A licensee shall not have more than one (1) deferred deposit transaction from any one (1) customer at any one time, with a face value greater than five hundred dollars (\$500).
- (11) Each licensee shall inquire of any person seeking to present a deferred deposit transaction, whether the person has any outstanding deferred deposit transactions from any licensees. If the customer represents in writing that the customer has no more than one (1) deferred deposit transaction outstanding to any licensee and that the face value of the outstanding deferred deposit transaction issued by the customer does not equal or exceed five hundred dollars (\$500), a licensee may accept a deferred deposit transaction in an amount that, when combined with the customer's other outstanding deferred deposit transaction, does not exceed five hundred dollars (\$500). If the customer represents in writing that the customer has more than one (1) deferred deposit transaction outstanding to any licensee or if the face value of the deferred deposit transaction issued by the customer equals or exceeds five hundred dollars (\$500), a licensee shall not accept another deferred deposit transaction from that customer until the customer represents to the licensee in writing that the customer qualifies to issue a new deferred deposit transaction under the requirements set forth in this section.
- (12) A licensee shall not use any device or agreement, including agreements with affiliated licensees, with the intent to obtain greater charges than are authorized in this section.
- (13) No licensee shall agree to hold a deferred deposit transaction for more than sixty (60) days.
- (14) Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the licensee or an authorized agent of the licensee, and made available to the office upon request. The customer shall receive a copy of this agreement.
- (15) A licensee or its affiliate shall not for a fee renew, roll over, or otherwise consolidate a deferred deposit transaction for a customer.
- (16) No individual who enters into a deferred deposit transaction with a licensee shall be convicted under the provisions of KRS 514.040.
- (17) No licensee who enters into a deferred deposit transaction with an individual shall prosecute or threaten to prosecute an individual under the provisions of KRS 514.040.
- (18) Each licensee shall conspicuously display in every deferred deposit business location a sign that gives the following notice: "No person who enters into a post-dated check or deferred deposit check transaction with this business establishment will be prosecuted or convicted of writing cold checks or of theft by deception under the provisions of KRS 514.040."

Effective: April 14, 1998

History: Amended 1998 Ky. Acts ch. 601, sec. 9, effective April 14, 1998. -- Created 1992 Ky. Acts ch. 213, sec. 10, effective July 14, 1992; and ch. 341, sec. 10, effective July 14, 1992.

Formerly codified as KRS 368.100.

Legislative Research Commission Note (7/12/2006). In accordance with 2006 Ky. Acts ch. 247, secs. 38 and 39, this statute has been renumbered as a section of the Kentucky Financial Services Code, KRS Chapter 286, and KRS references within this statute have been adjusted to conform with the 2006 renumbering of that code.

Legislative Research Commission Note (7/12/2006). 2005 Ky. Acts ch. 123, relating to the creation and organization of the Environmental and Public Protection Cabinet, instructs the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in that Act. Such a correction has been made in this section.